



**NEW JERSEY ARMY NATIONAL GUARD
JOINT FORCE HEADQUARTERS
3650 SAYLORS POND ROAD
JOINT BASE McGUIRE-DIX-LAKEHURST, NEW JERSEY 08640-5606**

ARMY BULLETIN NO. 4

15 November 2011

**DUAL COMPENSATION ISSUE AFFECTING SOLDIERS RECEIVING VA BENEFITS
(USPFO)**

1. REFERENCES:

- a. US Codes 10 12316 and 38 5304
- b. VA Form 21-8951
- c. Internal Review 2009-004 Dual Compensation of VA and MILPAY Entitlements Follow Up

2. PURPOSE: To inform soldiers and airmen who are currently serving in the New Jersey National Guard and collecting Veterans Affairs disability payments of potential dual status compensation issues that could cause personal financial issues.

3. ISSUE: Federal Law prohibits military members from collecting military pay and VA disability payments for the same period. Some NJ soldiers and airmen returning from deployments may have filed for and be receiving VA benefits for medical issues and be still continuing to drill with their units on a regular basis. In order to comply with the dual compensation laws, the VA is supposed to send identified soldiers and airmen VA Form 21-8951 each year. The form displays the amount of pay periods a soldier or airman has participated in training for each Fiscal year and asks the recipient to either waive military pay or VA benefits for the periods in question. The VA form explains that, in most instances, it is less expensive for the soldier or airman to elect to waive their VA benefits.

4. Actively participating Soldiers or Airmen who are receiving VA Medical Benefits but do not receive such a letter from the Veterans Administration are urged to contact their VA representative to address the issue. Failure to address dual compensation on a timely basis can result in a soldier or airman being held liable for thousands of dollars in improperly paid benefits which they will have to return to the US Treasury. This issue has the potential to result in an undue financial hardship for our soldiers and airmen as well as a loss of funds to the US Treasury.

5. Units are urged to brief their soldiers and airmen who may be receiving VA disability benefits so that they are fully educated on the potential financial liability if dual compensation goes unaddressed. Units are also urged to include this information in their annual briefing programs. A sample memorandum and annual briefing is attached.

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6. Point of contact for this memorandum is LTC Christopher Eads at (609) 562-0211.

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ENCL: Sample Memo and Annual Briefing

DISTRIBUTION: A, A2, C



Information Brief

Veterans Administration Medical Benefits and military entitlements

Veterans Administration Medical Benefits and military entitlements

- Purpose: To inform soldiers and airmen of potential dual compensation issues that result from receiving military pay and VA medical benefits for the same periods.

Veterans Administration Medical Benefits and military entitlements


- US Codes 10 12316 and 38 5304 specifically prohibit military members from receiving VA medical benefits for the same periods they are also performing military duties in an IDT, AT, ADT, or ADOS status

VA Form 21-8951 “Notice of waiver of VA compensation or pension to receive military pay and allowances”

- Form lists the number of periods the military member has performed and requests the member verify the number of training days listed
- Asks member elect to waive VA benefits or military pay for those periods
- VA is supposed to send to each soldier or airman annually

VA Form 21-8951 “Notice of waiver of VA compensation or pension to receive military pay and allowances”

- The form clearly explains that, in most instances, it is less expensive for the military member to elect to waive VA benefits.
- Members receiving VA medical benefits that do not receive this letter are directed to contact the VA and request that one be generated.

VA REGIONAL OFFICE	 Department of Veterans Affairs NOTICE OF WAIVER OF VA COMPENSATION OR PENSION TO RECEIVE MILITARY PAY AND ALLOWANCES				
NAME AND ADDRESS OF VETERAN	VA FILE NUMBER				
	SOCIAL SECURITY NUMBER				
	DAYTIME TELEPHONE NUMBER (include Area Code)				
	EVENING TELEPHONE NUMBER (include Area Code)				
<p>Active or inactive duty training pay cannot legally be paid concurrently with VA disability compensation or pension benefits (10 U.S.C. 12316 and 38 U.S.C. 5304(c)).</p> <p>You may elect to keep the training pay you received from the military service department. However, to be legally entitled to keep your training pay, you must waive VA benefits for a number of days equal to the number of days for which you received training pay. In most instances, it will be to your advantage to waive benefits and keep your training pay.</p> <p>Please enter the number of days for which you received training pay below:</p> <table border="0" style="width: 100%; text-align: center;"> <tr> <td style="width: 50%;">FISCAL YEAR:</td> <td style="width: 50%;">TRAINING DAYS</td> </tr> <tr> <td style="height: 100px;"></td> <td></td> </tr> </table> <p>NOTE: A fiscal year runs from October 1 through September 30. For example, fiscal year 1999 runs from October 1, 1998 through September 30, 1999.</p> <p>Please note that reserve components are to report the number of days during the fiscal year for which a reservist/guardman receives training pay as one full day's duty pay for each 4-hour training assembly attended. Therefore, you might be credited with 4 days training pay on a drill weekend. Most members will be paid for approximately 63 training days during a fiscal year. This normally consists of 48 armory drills or training sessions and 15 days active training.</p> <p>If you waive VA benefits to receive training pay, VA will adjust your VA award to withhold future benefits for the same total number of days waived and at the monthly rate in effect for the fiscal year for which you received training pay. No overpayment will be created in your account and your normal VA rate will be restored when a sufficient number of days' benefits have been withheld.</p>		FISCAL YEAR:	TRAINING DAYS		
FISCAL YEAR:	TRAINING DAYS				

Please fully complete this form, sign it, secure the signature of your unit commander or designee, and return it to the VA regional office address where your VA claims file is located. If you do not know where your VA claims file is located, return the form to the nearest VA regional office. Keep a photocopy of the completed form for your records.

Please check only one of the following blocks:

I elect to waive VA benefits for the days indicated on the front of this form in order to retain my training pay.

I elect to waive military pay and allowances for the days indicated on the front of this form in order to retain my VA compensation or pension. NOTE: Checking this option will give most veterans **LESS** money.

I received no military pay and allowances during the last fiscal year.

SIGNATURE OF RESERVE/STELLAR/GUARDSMAN	DATE SIGNED
To the best of my knowledge, the information shown on the front of the form concerning the member's training days is correct.	
SIGNATURE OF UNIT COMMANDER OR DESIGNEE	DATE SIGNED
NAME AND MAILING ADDRESS OF RESERVE/STELLAR/GUARD UNIT	UNIT TELEPHONE NO. (including Area Code)

NOTE: In the past you may have filed a one-time waiver of disability benefits which was to remain in effect until your reserve/guard status changed or you withdrew the waiver. That waiver is no longer valid. Annual waivers are again required.

If you have any questions about the information contained on this form or if you need assistance in completing the form, please call VA's toll-free number 1-800-827-1000.

PRIVACY ACT INFORMATION: The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22, Compensation, Pension, Education and Rehabilitation Records - VA, published in the Federal Register. Your obligation to respond is voluntary. Giving us your SSN account information is mandatory. Applicants are required to provide their SSN unless the disclosure of the SSN is required by a Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits under the law. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

RESPONDENT BURDEN: We need this information to determine whether you choose to waive your VA compensation or pension or your military pay and allowances for the days for which you received training pay (10 U.S.C. 12316 and 38 U.S.C. 5304(c), Title 38, United States Code), allows us to ask for this information. We estimate that you will need an average of 10 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if its number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at www.whitehouse.gov/omb/library/OMBINV.html#VA. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

PENALTY: The law provides severe penalties which include fine, imprisonment, or both for the willful submission of any statement or evidence of a material fact, knowing it to be false, or for the fraudulent acceptance of any payment to which you are not entitled.

Veterans Administration Medical Benefits and military entitlements

- Failure to address periods of dual compensation can result in incorrect benefits to continue to be paid and for the military member to be held financially liable for substantial amounts of money in the future.